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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,306	01/16/2004	Bruce S. Jones	NUKZ 2 00311-1	5363

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FAY SHARPE LLP
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EXAMINER

UHLENHAKE, JASON S

ART UNIT	PAPER NUMBER
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2853

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/758,306

Applicant(s)

JONES, BRUCE S.

Examiner

Jason Uhlenhake

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 22 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/16/2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

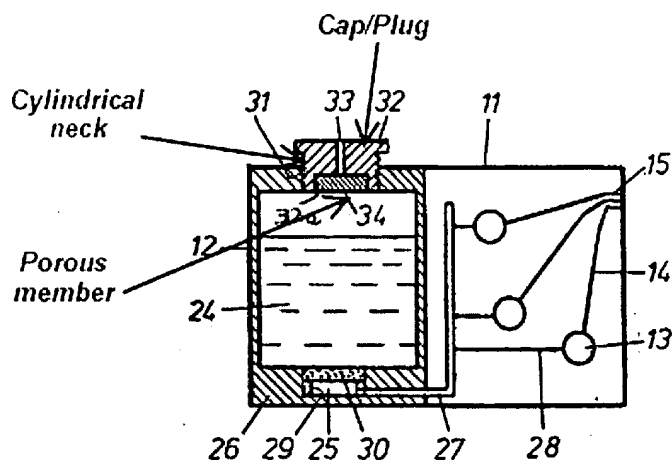
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amberntsson et al (U.S. Pat. 3,953,862) in view of Thomas (U.S. 4,463,362).

Amberntsson et al discloses:

- ***regarding claim 22***, an ink cartridge comprising a housing having a top wall, a bottom wall and side walls forming a chamber (12) or receiving ink, an outlet passage (25) through the bottom wall for dispensing ink from the chamber (12, Figure 2), and a vent/air inlet (33) including an opening through the top wall for venting air into the chamber (12) from atmosphere, the improvement comprising: the opening through the top wall including a cylindrical neck having an outer end, the vent being a porous member allowing air flow into the chamber substantially equal to ink flow through the outlet passage, and a cap securing the porous member (34) on the neck (Column 2, Lines 14-23)



Amberntsson does not disclose expressly:

- ***regarding claim 22***, a vent being a porous member resting on the upper, outer end to cover the opening

Thomas discloses:

- ***regarding claim 22***, a vent (26) being a porous member resting on the upper, outer end to cover the opening (Figure 2; Column 5, Lines 23-30), for the purpose of preventing entry of dust or foreign particles into the reservoir

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to incorporate the teaching of Thomas into the device of Amberntsson, for the purpose of preventing entry of dust or foreign particles into the reservoir

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Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wenzel (U.S. Pat. 5,700,315) in view of Askren et al (U.S. Pub. 2002/0097283) and Usui et al (U.S. Pat. 6,536,861)

Wenzel discloses:

- ***regarding claim 25***, a housing having a top wall (80), a bottom wall (32) and side walls (20, 22) forming a chamber for receiving ink, an outlet passage (52) through the bottom wall for dispensing ink from the chamber, and a vent (84) including an opening through the top wall for venting air into the chamber from atmosphere (Figure 1)

Wenzel does not disclose expressly the following:

- ***regarding claim 25***, vent being a diaphragm mounted on the top wall and having a flexible portion overlying the opening through the top wall on the inner side thereof

- diaphragm having a second portion extending through the opening which secures the diaphragm to the housing

Askren et al discloses:

- ***regarding claim 25***, vent (62) being a diaphragm (66) mounted on the top wall and having a flexible portion overlying the opening through the top wall on the inner side thereof (Paragraph 0038), for the purpose of indicating if the pressure threshold has been reached.

Usui discloses:

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- **regarding claim 25**, diaphragm having a second portion extending through the opening which secures the diaphragm to the housing (Figures 51-52, 56; Column 48, Line 45 – Column 49, Line 53), for the purpose of maintaining a stable pressure inside the ink cartridge

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to incorporate the teaching of vent being a diaphragm mounted on the top wall and having a flexible portion overlying the opening through the top wall on the inner side thereof as taught by Askren into the device of Wenzel and Usui, for the purpose of indicating if the pressure threshold has been reached and maintaining a stable pressure inside the ink cartridge.

Response to Arguments

Applicant's arguments with respect to claims 22, 25 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of allowable subject matter for claims 23-24 is the inclusion of the limitation of the cylindrical neck extends inwardly of the chamber from the top wall and is surrounded by a peripheral recess, whereby the outer end of the neck is adjacent to the outer side of the top wall. It is this limitation found in each of

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the claims, as it is claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes these claims allowable over the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Uhlenhake whose telephone number is (571) 272-5916. The examiner can normally be reached on Monday - Friday 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSU

March 16, 2007



STEPHEN MEIER
SUPERVISORY PATENT EXAMINER